

REMARKS

This Amendment is responsive to the Office Action mailed May 16, 2007. Since the Office Action is final, the Amendment is accompanied by a request for continued examination (“RCE”) together with the required fee.

Section 103 Rejections

The claims continue to be rejected under 35 U.S.C. §103(a) as being unpatentable over Rassman et al., U.S. Patent No. 4,937,743 (“Rassman”) and Subas et al., U.S. Patent No. 5,247,438 (“Subas”).

Independent claim 42 has been rewritten as new claims 126 - 128.

Rassman

Rassman does not recognize conflicting appointments. Moreover, Rassman apparently schedules an appointment (more specifically, resources) as a result of the user entering the defining information. Rassman only displays appointments that have already been scheduled.

Subas

Subas is merely a time management system and does not recognize a distinction between scheduled and unscheduled appointments. However, Subas does recognize conflicts, and its objective is to resolve them. Accordingly, a visual indication of a conflict is displayed and the user selects one of the conflicting appointments to modify so as to remove the conflict. The basic idea in Subas is that conflicts are to be avoided, and it is contrary to this basic idea to

schedule two conflicting appointments. Therefore, it would be contrary to Subas to select an appointment that conflicts with another appointment with the result being to schedule the conflicting appointment as it is, i.e., without a modification to remove the conflict.

Rassman and Subas Combined

The allegation is that it would have been obvious to modify Rassman according to the teachings of Subas. If that were done, Rassman would function as follows:

- (1) a user would specify a first appointment according to the teachings of Rassman (e.g., operating room 1, for Case abc, from 7:00 - 8:45 AM);
- (2) the first appointment would be checked for conflicts with prior scheduled appointments according to the teachings of Subas; and
- (3) if there is a conflict with a second appointment (e.g., operating room 1 is already scheduled for Case def from 8:00 - 10:00 AM, so that there is a timing overlap with the first appointment from 8:00 - 8:45AM), the user would be able to select one (or both) of the first and second appointments and change it to remove the conflict according to the teachings of Subas.

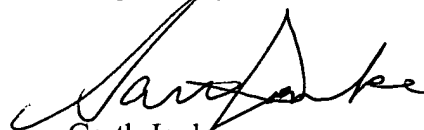
It is apparent that Rassman modified by Subas would resolve a conflict between two proposed appointments before scheduling them.

Conclusion

Since Subas is contrary to the invention, it would be expected that Rassman modified according to Subas would likewise be contrary to the invention. Claim 42 as previously presented required scheduling an appointment where there is a conflict, and Subas teaches against scheduling an appointment where there is a conflict. Accordingly, it is respectfully submitted that there is no *prima facie* case that the invention of claim 42 is obvious.

New claim 126 is believed to make the departure from the teachings of Rassman and Subas even more clear. Accordingly, it is respectfully submitted that claims 50 - 64, 68 - 82, 84 - 99, 103 - 117, and 125 - 127 are in condition for allowance, and the Examiner is respectfully requested to pass the case to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Garth Janke', written over the printed name.

Garth Janke
Reg. No. 40,662
(503) 224-2180